

**Montana Department
of
Fish, Wildlife & Parks**



P.O. Box 1630
Miles City, MT 59301
January 30, 1996

Fish, Wildlife & Parks Commissioners:

Stan Meyer, 3417 14th Ave S., Great Falls, MT 59605
David W. Simpson, 844 W. Fifth Street, Hardin, MT 59034
Darlyne Dascher, HC 65, Box 25, Fort Peck, MT 59223
Charles R. Decker, 176 Hammer Rd, Libby, MT 59923
Dale R. Tash, 108 Tobacco Root Rd, Dillon, MT 59725

Montana Fish, Wildlife & Parks

Director's Office	Parks Division
Fisheries Division	Wildlife Division
Regional Supervisors	Lands Section
Legal Unit	

Environmental Quality Council, Capitol Bldg, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Bldg, P.O. Box 200901, Helena, MT 59620-0901
Montana State Library, 1515 East Sixth Ave, Helena, MT 59620-1800
Mt. Historical Society, State Historic Preservation Office, 225 N. Roberts, Helena, MT 59620-1201
Custer County Commissioners, Custer Co. Courthouse, Miles City, MT 59301

Adjacent Landowners:

John Hamilton, Tongue River Stage, Miles City, MT 59301
Bob Pauley, Tongue River Stage, Miles City, MT 59301
Aaron Essex, Tongue River Stage, Miles City, MT 59301
Mary Chezum, Moon Creek Road, Miles City, MT 59301
Charles Bumgardner, Moon Creek Road, Miles City, MT 59301
Ervin Waldie, Tongue River Stage, Miles City, MT 59301
Pat Landers, Tongue River Stage, Miles City, MT 59301
Dr. Tom Pezzarossi, 2505 Stower, Miles City, MT 59301
Robert Shy, 319 Lake Ave, Miles City, MT 59301

Ladies and Gentlemen:

You recently received documents relating to the Montana Fish, Wildlife and Parks (FWP) proposal to purchase a conservation easement on 8,908.77 acres of land owned by Les and Donna Hirsch along the Tongue River, 30 miles south of Miles City. This project is part of FWP's mitigation and enhancement responsibilities for wildlife and their habitats resulting from the Tongue River Dam project.

The draft documents you received were not changed after a public review period. Please consider your previous copies as the final documents.

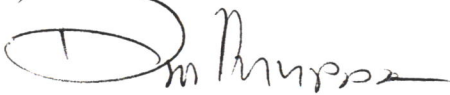
Several comments were received regarding the Hirsch Ranch easement proposal. These comments are summarized in the enclosed Decision Notice. The comments indicate strong public support for the purchase of this easement. It is my recommendation to purchase a conservation easement on the Les and Donna Hirsch property, subject to approval by the FWP Commission.

Custer

The FWP Commission will be asked to approve the purchase of this easement at their meeting on February 7, 1997.

Thank you very much for your interest and involvement.

Sincerely,



Don Hyypa
Regional Supervisor

Enclosure

Other Interested Groups and Individuals

Steve Antonioli, Skyline Sportsmen, P.O. Box 173, Butte, MT 59703

Ira Holt, 548 Cielo Vista, Hamilton, MT 59840

Nature Conservancy, 32 South Ewing, Helena, MT 59601-5702

Dave Majors, Montana Wildlife Federation, 3289 Wood Duck Lane, Stevensville, MT 59870

Tony Jewett, Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624

John Gatchell, Montana Wilderness Assn, P.O. Box 595, Helena, MT 59624

Rich Day, National Wildlife Federation, 240 North Higgins, Missoula, MT 59802

Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624

Jim Richard, Montana Wildlife Federation, P.O. Box 508, White Sulphur Springs, MT 59645

Alan Rollo, Montana Wildlife Federation, 808 52nd Street South, Great Falls, MT 59405

Prickley Pear Sportsmen's Assn, 1721 Virginia Dale Street, Helena, MT 59601

John Wilson, Montana Land Reliance, P.O. Box 355, Helena, MT 59624

Glenn Marx, Governor's Office, Capitol Station, Helena, MT 59620

Jim Peterson, Montana Stockgrower's Assn, P.O. Box 1679, Helena, MT 59604

Danny Maag, Powderville, MT 59345

Clyde Leischner, 1709 N. Strevell, Miles City, MT 59301

John Killen, 2506 Brisbin, Miles City, MT 59301

DECISION NOTICE

HIRSCH RANCH CONSERVATION EASEMENT ACQUISITION

Prepared by Region 7, Montana Fish, Wildlife & Parks
January 23, 1997

PROPOSAL

Montana Fish, Wildlife and Parks (FWP) proposes to purchase a conservation easement on 8,908.77 acres of land owned by Les and Donna Hirsch. The property is located 30 miles south of Miles City along the Tongue River. The property has 5 miles of Tongue River frontage. All acreage is located in Custer County and accessed by Highway 332.

Three of six statewide habitats identified in Habitat Montana; riparian, shrub grassland and plains forest constitute the property. From a statewide and eco-region perspective, riparian and shrub grassland habitats are two that are seriously threatened and/or highly productive and in need of enhancement and protection. Easement terms would require FWP participation in development of the properties to enhance and conserve these habitats for wild and domestic animals.

The easement will require in perpetuity provisions to: protect riparian areas while producing crops to benefit wildlife and livestock, no more than 50% of the existing irrigated fields may be planted to crops other than wheat, barley, oats, corn or alfalfa; prohibit additional sod-busting; and maintain the existing management system for public hunting. Additionally, the landowners and Fish, Wildlife and Parks will develop rest-rotation grazing systems that will accommodate yearlong grazing by livestock.

The proposed action will meet a portion of FWP's mitigation and enhancement responsibilities for wildlife and their habitats resulting from the Tongue River Dam project.

MONTANA ENVIRONMENTAL POLICY ACT PROCESS

FWP is required to assess impacts to the human and physical environment under the Montana Environmental Policy Act (MEPA). The Hirsch Ranch Easement Proposal and its effects were documented by FWP in an Environmental Assessment.

A 30 day public comment period ran from December 20, 1996 through January 20, 1997. Public notices of the proposed action were placed in area newspapers (Miles City, Billings and Helena) and a public hearing was held at the public meeting room of the Montana FWP's headquarters in Miles City on January 14, 1997. Approximately 100 copies of the Environmental Assessment were distributed to adjacent landowners, sportsmen groups, County Commissioners, members of the Council of the Northern Cheyenne Tribe, members of the Tongue River enhancement team and other interested parties. In addition, representatives of FWP met with the Custer County Commission and the Tongue River Enhancement Team to explain the proposal and answer questions. Adjacent landowners were also contacted and given a copy of the documents (EA, Management Plan and Socio-Economic Assessment). The Hirsch Ranch project was also selected

as a project to act upon by the Project Managers for the Tongue River Dam Project. The Project Managers are the Vice-President of the Northern Cheyenne Tribe, the Director of the Department of Natural Resources and Conservation, and the Montana Area Manager of the Bureau of Reclamation.

ISSUES RAISED IN THE ENVIRONMENTAL ASSESSMENT (EA)

The EA lists the issues in detail. The primary issue is to: protect seriously threatened habitats, particularly the riparian and sagebrush grassland habitats; and to meet the conservation mandates of the "Settlement Act of 1992" which directed the Secretary of Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, and design and construction of the Tongue River Dam Project.

Other issues addressed by the project will be: the improvement of conditions for wildlife production by developing and limiting the amount of land farmed and implementing rest-rotation grazing; keeping in perpetuity lands for agricultural purposes; guaranteeing in perpetuity annual hunting opportunities; providing access to five miles of the Tongue River for purposes of hunting; and protection and enhancement of an existing wetland. The easement will not cause a reduction in tax revenues to Custer County and under the terms of the easement the County may see an increase in tax revenues due to an increase in cattle numbers associated with the implementation of rest-rotation grazing.

SUMMARY OF PUBLIC COMMENTS

We received a total of 9 comments as follows:

- A. Gave testimonials, 2 written and 3 oral (oral comments were received at the public meeting).
- B. Two written requests for a copy of the environmental assessment.
- C. A written request to discuss the possibility of a conservation easement on other private lands.
- D. A letter of record to confirm the Tongue River Railroad Company's authorization to construct a rail line between Miles City and Decker, Montana.

Comments

Of the 5 testimonials received, 4 were in favor and 1 opposed. The opposition was in the form of an anonymous letter. The writer simply does not like easements and is concerned about:

- 1. The price paid for easements.
- 2. Tax consequences - "all landowners will have to pay higher tax on the land because of its ability to produce income through easements".
- 3. Ranchers and sportsmen have not had ample time to react to this whole easement concept of yours."
- 4. Believes easement pits neighbors against one another.

Four comments received in favor of the easement supported it for the following reasons:

- 1. Saw no negative impacts.

2. Provides needed access for hunting opportunity now and in future.
3. Likes idea of preserving habitat for future enjoyment by sportsmen.
4. Liked idea of landowner taking lead in conservation practices.
5. Recognizes the significance of rivers and river habitats in southeast Montana for wildlife and livestock and wants them conserved.
6. Doesn't want to see the land divided into small parcels particularly along the river as is the case in other parts of Montana.
7. Likes idea of rest-rotation grazing to benefit wildlife and livestock.
8. Likes the idea of maintaining room and this conservation program is about room and the room is land.
9. Likes the benefits provided for the public even though there are limits, hopes other landowners will follow.

Public Meeting

A public meeting was held in the community room of the FWP's building in Miles City on January 14, 1997. Over 40 people attended, both landowners and sportsmen were represented. People came from Ashland, Powderville, Knowlton and Terry, as well as the Miles City-Tongue River Valley area. Federal and state officials came from Billings and Helena because the project is under the authority of the Tongue River Basin Project to repair the Tongue River Dam, satisfy Northern Cheyenne water rights and enhance wildlife habitat.

Although questions about specifics of the Hirsch easement were asked the meeting turned into more of an "informational meeting" about conservation easements than about the specifics of the Hirsch easement.

Of the people that signed the sign-up sheet and took the opportunity to register as an opponent or proponent all signed as proponents.

Additional Comments

This proposal was presented by FWP to the Custer County Commission. There was support for the project.

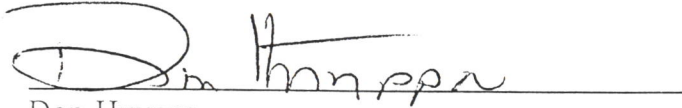
DECISION

Utilizing the EA and public comment, a decision must be rendered by FWP which addresses the concerns and issues identified for this proposed easement.

Given Congressional mandate to enhance wildlife habitat in the Tongue River Basin, results of FWP's analysis and strong public support, good judgement requires conserving the Hirsch property with a conservation easement. This property contains three of the six statewide habitats identified in Habitat Montana as in need of protection and enhancement. Two of the most critical statewide habitats needing attention, the riparian and sagebrush-grassland, occur on the property. The property also has a large wetland in the riparian river habitat worthy of protection and enhancement. The property also supports a mix of game and non-game wildlife species, several of which are abundant. All of these valuable resources may be threatened by land use changes which are presently occurring throughout Montana. A conservation easement on the Hirsch property would maintain in perpetuity important wildlife habitat and the public's use and

enjoyment of wildlife and the property.

After review of this proposal and the corresponding public support, it is my recommendation to purchase a conservation easement on the Hirsch property, subject to approval by the FWP Commission.

A handwritten signature in dark ink, appearing to read "Don Hyyppa", is written over a horizontal line.

Don Hyyppa
Regional Supervisor
Miles City, MT
January 25, 1997